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ABSTRACT

This issue paper, intended to stimulate discussion within the employment and training community, was developed in response to the Economic Dislocation and Worker Adjustment Assistance Act (EDWAAA), the recently passed amendments to the Title III dislocated worker program of the Job Training Partnership Act (JTPA). The fact sheets and option paper that make up this document represent efforts to provide local government officials with information about the changes in the law and the kinds of choices available to service delivery area administrators, local elected officials, and private industry councils as they begin to negotiate with their governors about their role in delivering Worker Adjustment Assistance Program services. The first part of the paper contains: Worker Adjustment Assistance Program fact sheets covering substate area designation; substate grantee designation; distribution of funds; federal, state, and local dislocated worker services; eligibility; and state council composition and responsibilities. The second part of the paper discusses: (1) local roles, options, and issues in the early implementation phase of EDWAAA; (2) designation of substate areas and substate grantees; and (3) other issues that affect local options and program outcomes. (KC)

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ISSUES IN TRAINING AND EMPLOYMENT

WORKER ADJUSTMENT ASSISTANCE: A GUIDE TO LOCAL OPTIONS

National Association of Counties

United States Conference of Mayors

National League of Cities

National Association of Private Industry Councils

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Worker Adjustment Assistance:
A Guide to Local Options

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Sponsored by the National Association of Counties, United States Conference of Mayors,
National Leauge of Cities and National Association of Private Industry Councils
through grants from the United States Department of Labor

WORKER ADJUSTMENT ASSISTANCE:
A GUIDE TO LOCAL OPTIONS

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Worker Adjustment Assistance:
A Guide to Local Options

Preface

The National Association of Counties (NACo), the United States Conference of Mayors (USCM), the National League of Cities (NLC) and the National Association of Private Industry Councils (NAPIC) are pleased to publish this Issue Paper entitled "Worker Adjustment Assistance: A Guide to Local Options", by Frances R. Rothstein.

This Issue Paper was developed in response to the Economic Dislocation and Worker Adjustment Assistance Act (EDWAAA), the recently passed amendments to the Job Training Partnership Act's (JTPA's) Title III dislocated worker program. Because these amendments produced significant changes in the way in which the JTPA Title III program operates, it was felt that there was a need for information dissemination to service delivery areas about their potential role in implementing EDWAAA. The fact sheets and options paper which make up this Issue Paper represent our efforts to provide you with information about the changes in the law and the kinds of choices service delivery area administrators, local elected officials and private industry councils have as they begin to negotiate with their governors about their role in delivering worker adjustement assistance program services.

This paper was sponsored by NACo, USCM, NLC and NAPIC and paid for through grants from the US Department of Labor to NACo and USCM. While it does reflect the views and opinions of its sponsors, it does not reflect, necessarily, the views or opinions of the US Department of Labor.

This paper is meant to stimulate discussion within the employment and training community. We would appreciate your comments on this paper. Please address your comments to Neil E. Bomberg, Research Associate and Editor, Issue Papers Series, National Association of Counties, 440 First Street, NW, Washington, DC 20001.

Part I:
Worker Adjustment Assistance Program
Fact Sheets

Worker Adjustment Assistance Program Fact Sheet

Substate Area Designation

Most activities funded by JTPA Title III as amended by the Economic Dislocation and Worker Adjustment Assistance Act will be operated through substate geographic areas. These may or may not be consistent with JTPA Service Delivery Areas (SDAs). SDAs and the local elected officials and private industry councils in those SDAs have an opportunity to influence the substate area designation process to promote effective service to dislocated workers within their jurisdiction. Small SDAs and rural SDAs have a particular responsibility to negotiate with their Governors and with neighboring SDAs to ensure favorable designation results.

Responsibility for Designation Decisions

Governors have responsibility for designating substate areas, with attention to the following considerations:

- Availability of services throughout the State;
- Capability to coordinate the delivery of services with other human services and economic development programs; and
- Geographic boundaries of labor market areas within the State.

Designation Criteria

Designation decisions are to be based on the following factors:

- Each service delivery area (SDA) must be included within a substate area, and no SDA may be divided among two or more substate areas.
- SDAs with a population of 200,000 or more shall automatically be designated as substate areas.
- Two or more contiguous SDAs with an aggregate population of 200,000 or more that request substate designation shall be designated, unless the Governor decides that such designation would limit effective delivery of services to eligible dislocated workers in various urban or rural labor market areas, or would otherwise hamper implementation of the program.
- The Governor has the option to designate as substate areas single SDAs or contiguous combinations of SDAs whose aggregate population is less than 200,000.
- Substate area placement of SDAs smaller than 200,000 population is at the discretion of the Governor.
- Rural concentrated employment program (CEP) grantees shall receive automatic substate designation.

Changes in Substate Area Designations

Substate area designations may not be revised more than once every two years, but there is no requirement that substate area designations ever be revised.

Local Role

SDAs should decide how services would be best provided and request designation accordingly. Smaller SDAs in particular have the responsibility to join with others to request designation as a multi-SDA substate area with an aggregate population of at least 200,000 if they so desire; otherwise, the Governor has the right to draw the substate map without consideration for SDA preferences. Both individually and through PIC, SDA, city, and county associations, local officials need to move quickly to establish a mood of

state/local consultation and to propose consultative processes to the Governor.

SJTCC Role

State councils are responsible for making recommendations to the Governor about substate area designation prior to the Governor's decision on substate boundaries.

Timetable

Substate area designation is a fast-tract process, with Governors beginning their deliberation as early as mid September. U.S. DOL has proposed that substate area designation be completed by December 1, 1988—three months earlier than the legislative deadline of March 1, 1989. This short timeframe (whether states meet DOL's goals or that in the law) makes it likely that at least some of the Governors may follow the current SDA map in designating substate areas.

Worker Adjustment Assistance Program Fact Sheet

Substate Grantee Designation

Substate grantee designation is related to, but not the same as, substate area designation. The substate area is a geographic determination, while the substate grantee will be responsible for program administration and resource utilization within the substate area.

Responsibility for Designation Decisions

Each substate area shall have a substate grantee designated every two years through an agreement among the Governor and the local elected official(s) and the private industry council(s) in the substate area. If these parties fail to agree, the Governor has the authority to designate the grantee. In substate areas in which there is more than one local elected official or council, each official and council designates representatives to negotiate an agreement on a substate grantee. Governors have the authority to establish procedures for designating substate grantees.

Role of the Substate Grantee

The substate grantee in each substate area is responsible for providing dislocated workers with basic readjustment services, retraining services, needs related payments as detailed in Section 314(c), (d), and (e). The substate grantee may provide such services directly or through arrangements with other service providers. The substate grantee prepares a substate plan annually for submission to and approval by the Governor, with prior review and comment by the local elected officials and the private industry council.

Issues to Consider

Through their plan development function, substate grantees have considerable power to determine how effectively services are delivered. Some of the issues that affect the substate grantee decision follow:

- Because of the requirement that substate grantee status be reviewed biennially, an SDA with substate area status could seek substate grantee status at some future date; however, without substate area status SDAs have fewer options regarding their future roles.

- The fast track timing of initial program implementation requires a substate grantee which can gear up quickly.

- The substate grantee has several role options: The substate grantee can administer the program delivering services directly, or the substate grantee can choose to broker the delivery of services through contractual or other arrangements.

Designation Criteria

Entities eligible for designation as a substate grantee include:

- PICs in the substate area;

- SDA grant recipients or administrative entities;

- Private nonprofit organizations;

- Local governments or local government units in the substate area;

- Local offices of State agencies; and

- Other public agencies.

Because of the fast implementation timetable for EDWAAA, it is likely, although not by any means certain, that many states will designate current SDA administrative entities to serve as substate grantees, especially in states in which each SDA is designated as a substate area.

Changes in Substate Grantees

Substate grantees shall be designated every two years; this provides an opportunity for, but not a guarantee of, periodic changes in substate grantees.

Local Role

During the substate grantee designation deliberations, PICS and LEOs can negotiate roles such as policy guidance, oversight, program review and comment, promoting labor management cooperation, and providing support for rapid response activities. Smaller SDAs which are part of a larger substate area should take an active role in the substate grantee designation process. An SDA which is not itself the substate grantee has no guaranteed role (other than PIC/LEO review and comment) in the development of the substate plan unless they negotiate a larger role up front. PICs, and LEOs should move quickly to present their positions to the state and foster a climate of open discussion.

SJTCC Role

The Governor is to consult with the state council regarding the establishment of procedures for the designation of representatives of local elected officials and councils multi-SDA substate areas; such representatives are responsible for negotiating an agreement with the Governor about designation of a substate grantee for the substate area.

Timetable

US DOL recommends that substate grantees be designated by December 30, 1988. The legislation allows two months longer, using the same March 1, 1989 deadline as for substate area designation.

Worker Adjustment Assistance Program Fact Sheet

Distribution of Funds

Most funds available through the Economic Dislocation and Worker Adjustment Assistance Act are distributed through the States to substate areas. Governors have great discretion in determining the division of funds among substate areas within the State.

Funding Level

Congress authorized $980 million for Fiscal Year 1989; however, only $284 million has been appropriated.

Allotment of Funds to The Various States

Of the funds available for EDWAA each year, 20 percent is reserved for federal use, and 80 percent will be allotted to the States. Funds allotted to the various states will be based initially on the existing JTPA Title III formula:

- Unemployment. One-third shall be allotted based on the relative number of unemployed individuals residing in each State, as compared to the number of unemployed individuals in all the States.

- Excess Unemployment. One-third shall be allotted based on the relative number of unemployed individuals above 4.5 percent of the civilian labor force in each State.

- Long-term Unemployment. One-third shall be allotted based on the relative number of individuals residing in the State who have been unemployed for 15 weeks or longer.

Once additional data are available, a fourth factor based on plant closings and mass layoffs will be added to the allocation formula. Data on farmer and rancher dislocation will be added to this formula factor.

Use of Funds Within the State

Of the 80 percent allotted to the States:

- No more than 40 percent may be used for: state administration, technical assistance, and coordination; statewide, regional, or industrywide projects; rapid response activities; coordination between the unemployment compensation and the worker adjustment program systems; and additional readjustment and retraining services in areas with substantial increases in dislocated workers.

- No more than 10 percent of the state allotment may be reserved by the Governor for allocation to substate grantees based on need and to be distributed not later than nine months after the beginning of the program year.

Substate allocation of the remaining 50 percent of the 80 percent is based on the allocation formula determined by the Governor. The formula must include at least the following six factors: insured employment data, unemployment concentrations, plant closing and mass layoff data, declining industries data, farmer-rancher economical hardship data, and long term unemployment data. The Governor may assign variable weights to any of those six factors, and may base the formula on other factors as well. The Governor may not amend the formula more than once per program year.

Carryover, Reallocation, and Reallotment of Funds

Not more than 20 percent of a prior year's state allotment may be carried forward. Excess funds may by reallotted by the Secretary first to states with an unemployment rate greater than the national average and second to States without

excess carryover. To avoid reallotment, the Governor shall prescribe procedures for expending funds. When reallotment occurs the Governor shall prescribe equitable procedures for collecting such funds.

SJTCC Role

There is no mandated role for the state council in the allocation process within the State. However, Governors are likely to consult state councils, and state councils can be expected to make recommendations to the Governor on the development of the allocation formula and to monitor the allocation of initial and reallotted funds.

Local Role

There is no mandated role for SDAs in the allocation process. However, SDAs would be well advised to maintain ongoing contact with the Governor and the SJTCC on this issue, and to present recommendations that take local needs into account. PICs and LEOs need to determine which formula alternatives are being considered by the state, how the various formula options affect their community, and what factors would serve their SDA well. They then need to make those preferences known at the state level.

Worker Adjustment Assistance Program Fact Sheet

Federal, State and Local Dislocated Worker Services

The Economic Dislocation and Worker Adjustment Assistance Act bases its service strategy on two principles; facilitating rapid readjustment and retraining for dislocated workers, and easing the personal and financial difficulties of those workers. Each level of government has a role in delivering worker adjustment services.

Allowable Services

EDWAAA funds may be used for: rapid response assistance, basic readjustment services and support services, retraining services, needs related payments, and coordination with the unemployment compensation system.

Substate Responsibilities

Substate grantees are responsible for the following services.

- Retraining Services. Substate grantees must spend at least 50 percent of expended funds on retraining services (unless the Governor grants them a waiver, to no less than 30 percent.) Retraining services include: classroom training, occupational skills training, on-the-job training, out-of-area job search and relocation, basic and remedial education, literacy and English as a Second Language training, entrepreneurial training, and other job-related training. Wages for public service employment may not be paid.

- Basic Readjustment Services. Substate grantees may provide basic readjustment services such as: outreach and intake, testing and assessment, development of individual readjustment plans, provision of labor market and occupational information, job development, job search and job placement assistance, supportive services, pre-layoff assistance, relocation assistance, and early intervention programs in cooperation with employers or labor organizations in the event of plant closures.

- Needs Related Payments and Supportive Services. Not more than 25 percent of the funds expended by the substate grantee under this title may be used to provide needs-related payments and other supportive services. Needs-based payments may be provided to dislocated workers who have exhausted their unemployment compensation payments so that they can participate in EDWAAA training or education programs. To qualify, individuals must be enrolled in training by the end of the 13th week of the initial benefit period or by the end of the 8th week after being informed that a supposed short term layoff will exceed 6 months. Payments shall not exceed the higher of: the individual's unemployment compensation payments, or the OMB poverty level. Supportive services, which include child care, financial and personal counseling and commuting assistance may continue for 90 days after the participant has completed other basic readjustment services.

- Administrative Funds. Administrative funds may not exceed 15 percent of funds expended under this title.

State Responsibilities

The Governor has overall administrative responsibility for the program, including activities such as reconstituting the SJTCC, designating substate areas and substate grantees, preparing the state plan, and developing the substate allocation formula. In addition, the state has several specific programmatic responsibilities:

- Rapid Response Assistance. State dislocated worker units are responsible for carrying out the rapid response functions in the Act. The cost of these functions is exempted fom the State's administrative cost limitations. State rapid response functions include: establishing immediate on-site contact with employers and

employee representatives faced with a plant closure or substantial layoff, and providing information and emergency assistance; promoting the formation of labor management committees through technical assistance and start up costs; collecting and disseminating information on economic dislocations and accessing State assistance. States may also provide funds to assess the feasibility of a company or worker buyout as a means of keeping a threatened plant operating.

- Coordination With Unemployment Compensation. States are responsible for coordinating the unemployment compensation system with the worker adjustment assistance programs. The costs of these coordination functions count towards the State's 15 percent administrative cost limitation.

- Statewide, Regional or Industry-wide Projects. States may contract for services to meet dislocated worker needs on a statewide, regional or industry-wide basis.

FEDERAL RESPONSIBILITIES

In addition to its administrative, technical assistance and research and information functions, the U.S. Department of Labor may use its 20 percent of EDWAAA funds to provide services to dislocated workers and to train state and local staffs.

- Worker Adjustment Services. DOL may provide services in the event of: mass layoffs, industry-wide projects, multi-state projects, special projects with Indian tribal governments, and projects addressing national or regional concerns. The Secretary may also provide funds to supplement State activities in emergencies and at other times, with the Governor's agreement.

- Staff Training. Up to five percent of the Federal 20 percent share of the EDWAA funds may be used for training state and local staffs (public sector as well as business, labor and non-profit staffs). Additional funds from the 20 percent may be used to train rapid response staffs, with an emphasis on working with labor management committees.

Worker Adjustment Assistance Program Fact Sheet

Eligibility

All workers who were eligible for services under JTPA's original Title III continue to be eligible under Title III as amended by the Economic Dislocation and Worker Adjustment Assistance Act. However, EDWAA broadens eligibility to specifically include ranchers, all laid off workers, and, at the Governor's option, displaced homemakers.

Dislocated workers eligible for EDWAA services include the following:

- Workers who have been terminated or laid off or who have received a notice of termination or layoff, are eligible for or have exhausted their unemployment insurance payments, and are unlikely to return to their previous industry or occupation.

- Workers who have been terminated or have received a notice of termination of employment as a result of any permanent closure of or any **substantial layoff** at a plant, facility, or enterprise.

- Workers who are long term unemployed and have limited local opportunities for employment or re-employment in the same or a similar occupation. This includes older workers whose age may present a barrier to employment.

- Farmers, **ranchers**, and others who were self employed and are unemployed as a result of general economic conditions or natural disaster.

- And at the Governor's option, **displaced homemakers** who had been full time homemakers for a substantial numbers of years and whose income had come from:

  — a spouse, in cases in which support is no longer received due to the death, divorce, permanent disability of, or permanent separation from the spouse, or

  — public assistance on account of dependents in the home, in cases in which the homemaker no longer receives that support.

Changes in the definitions of eligibility are highlighted above. Each of the changes reflects the Congressional intent that "eligible dislocated workers" be defined as broadly as possible, based on the definition used by the Department of Labor Task Force on Economic Adjustment and Worker Dislocation: "displaced workers, distinguished from other unemployed workers by the permanence of their job loss, as well as their substantial investment in and attachment to their former jobs."

The first change, inclusion of substantial layoff along with plant closings, acknowledges a circumstance already addressed by most Title III programs.

The second change, including ranchers along with farmers as examples of displaced workers who had been self employed, is an important addition for rural states; Senate Committee discussion expanded the examples of "others who had been self employed" to include workers such as self employed fishermen and crew members who had "had a good long term job that is disappearing and who will most profit from dislocated worker services."

The third change, specific inclusion of displaced homemakers as eligible for assistance under Title III as amended by EDWAAA, acknowledges that displaced homemakers who are over the income limits for Title IIA services may be declared eligible for EDWAA services at the Governor's discretion. At least five states have utilized Title III funds to serve displaced homemakers (New York, Montana, Pennsylvania, Louisiana, and, until recently, Florida). Including displaced homemakers as an eligible group in EDWAAA simply clarifies that such a state policy is indeed

legal, as long as the Governor determines that service to displaced homemakers does not adversely affect the delivery of services to other dislocated workers.

Eligible clients may receive a certificate of continuing eligibility not to exceed 104 weeks. The certificate does not carry monetary value and may be used only so long as the program is funded. Additional information on this certificate may be found in Section 316(b).

Worker Adjustment Assistance Program Fact Sheet

State Council Composition and Responsibilities

The Economic Dislocation and Worker Adjustment Assistance Act changes both the composition and the functions of State Job Training Coordinating Councils.

Changes in SJTCC Composition

State councils will be reconstituted in the following ways:

- Thirty percent representing business and industry (including agriculture where appropriate). This category includes members who represent business and industry on local PICs. This change is a slight reduction of the business presence on state councils (down from 33 1/3 percent).

- Thirty percent representing state and local interests. This category includes representatives of State legislatures, agencies, and organizations, as well as representatives of general local governments and local education agencies. This change is a potential reduction of the state and/or the local governmental percent of state councils; previously, each had 20 percent of the seats, while they now have a total of 30 percent, with no mandated 50/50 split of those seats as before.

- Thirty percent representing organized labor and community-based organizations, each of which had previously been only one of five elements which made up 20 percent of the old councils (along with local education agencies, the service population, and the general public).

- Ten percent representing the general public. This provision will increase the number of seats filled by members of the general public and the eligible population on most state councils.

Process For Reconstituting the SJTCC

The law does not specify a process for making the SJTCC membership changes, other than noting the following:

- The Governor determines which state agencies should be represented on the SJTCC based on their direct interest in employment and training and human resource utilization within the States;

- Chief elected officials of local government units or consortia nominate local government representatives;

- Local education agencies nominate their representatives;

- The Governor appoints representatives of the general public; and

- The Governor appoints a nongovernmental member to chair the council.

Changes in SJTCC Responsibilities

State council functions relative to EDWAA include the following:

- Advising the Governor on designation of substate areas and substate grantees and on the procedure for selecting PIC and LEO representatives within substate areas relative to grantee designation;

- Advising the Governor on developing the formula for distributing funds among substate areas and for reallocating unexpended funds;

- Reviewing and commenting to the Governor on State and substate EDWAA programs;

- Reviewing and submitting comments on the State plan prior to submission to the Secretary and on each substate plan as well; and

- Advising the Governor on the establishment and application of performance standards.

TIMEFRAME

DOL has proposed that Governors initiate the process for reconstituting their state councils by mid-September, with November 1, 1988 as the target date for completing new appointments. The law sets January 1, 1989 as the date by which the councils must be reconstituted in order to begin performing their mandated functions.

Part II:
Local Roles, Options and Issues in the Early Implementation Phase of the Economic Dislocation and Worker Adjustment Assistance Act

Local Roles, Options and Issues in the Early Implementation Phase of the Economic Dislocation and Worker Adjustment Assistance Act

by Frances R. Rothstein
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Tomorrow's careers will entail a lifelong commitment to retraining, and the prospect of frequent short bouts of unemployment.

--Fortune Magazine, April 11, 1988

The Economic Dislocation and Worker Adjustment Assistance Act (EDWAAA) is a potentially powerful tool for dealing with worker dislocation. It amends the Title III Dislocated Worker Program of the Job Training Partnership Act (JTPA) to establish a strong local role in program administration and service delivery. No longer primarily a State program, Title III now builds on the State/local partnership that is the underpinning of JTPA as a whole.

With its emphasis on retraining, EDWAAA supports the concept of lifelong learning, i.e., that American workers of the future will change careers five to six times over their work lives, with a recurring need to learn new skills, and that individual jobs will change rapidly, requiring constant retraining even for those workers not faced with dislocation. With its emphasis on rapid response, EDWAAA builds on the proven principle that early, immediate intervention is the single most important element in limiting the debilitating effects of worker dislocation and preparing affected workers for labor force reentry. Its emphasis on coordination offers states and local programs an opportunity to use EDWAAA funds to leverage change in existing systems and to forge new linkages among existing programs and resources. And its increased role for labor recognizes that worker adjustment programs are most effective when the affected workers are involved in structuring and implementing them.

While plant closings and mass layoffs illustrate the economic dislocation problem on a grand scale, the effects of permanent job loss on scattered individual workers is just as devastating. It is clear from the law itself, as well as from Committee reports, that EDWAAA is not solely a law to focus on workers affected by plant closings. Congress specifically intended to assist the broadest range of dislocated workers, from the displaced union laborer to the displaced farmer, and from the victim of corporate downsizing to the victim of a small business bankruptcy. Nonetheless, each State has the opportunity to shape EDWAAA to meet its own needs, with tools ranging from its dislocated worker unit, that is responsible for the rapid response function, to its substate allocation formula, that can skew EDWAAA toward easing large business dislocations or toward meeting individuals readjustment and retraining needs. The negotiating skills of various interest groups will be a key factor in determining the emphasis and local impacts of each State's EDWAAA policies.

Likewise, negotiating skills of PICs and LEOs will shape the role of local interests as EDWAAA plays out in states and localities across the nation. Perhaps one of the most significant changes will be the shift of Title III from a State-run program that in many cases worked around local structures to a State/local partnership that is built upon State leadership buttressed by substate activity. Private industry councils, local elected officials, and other interest groups within substate delivery areas will need to draw upon all the partnership-building experience they have amassed in the past few years of JTPA, as there are few "givens" and many options under the new legislation re-

garding the shape of the new State/local partnership.

As in any negotiation process, it is best to have as much information as possible as soon as possible. "Local interests" may be very differently defined, depending on whether it is a PIC or an elected official who is defining them. In addition, labor is a newly powerful player, and the labor view on any of the key issues may differ substantially from that of the PIC, the LEOs, or the Governor. PICs and LEOs need to meet early with representatives of the various interests within the SDA (and, for smaller SDAs, within neighboring SDAs). Once each local interest makes its public position known, PICs and LEOs should try to identify each party's hidden agenda, so that negotiations can proceed as smoothly as possible.

Designation of Substate Areas and Substate Grantees: Two Immediate, Critical Issues

There are many elements of the new program that will have to be hammered out over time. However, the U.S. Department of Labor (DOL) has framed an ambitious timetable that will force quick —some say precipitous — decisions on immediate issues. In recognition of the "firefighting mentality" that will necessarily predominate in the early weeks and months of preparation for EDWAAA's July 1, 1989 implementation date, this paper emphasizes local opportunities regarding two watershed issues: the substate area designation process, and the substate grantee designation process. Decisions on these two closely related issues will affect EDWAAA's effectiveness in meeting local needs as well as in serving dislocated workers; interests. Some of the program funding issues are identified in the context of the designation decisions, as they are closely related. Designation decisions will also shape each State's and local area's approach to the numerous issues and options that will face policymakers and program operators as EDWAAA implementation gets underway; the paper raises some of these issues to encourage local policymakers to be aware of them during the designation process.

There is only a small window of opportunity during which SDAs can obtain substate area designation. DOL expects Governors to complete that process by December 1, 1988, and the law does not require that Governors ever reconsider their substate area designation decisions. Large SDAs (200,000 plus population) will be designated as substate areas automatically; however, smaller SDAs need to evaluate both their immediate and their long-term interests quickly, and petition the Governor to obtain the substate designation that they expect will be most beneficial to them. SDAs which, at this time, abrogate their right to influence the Governor's decision regarding their substate area placement may never have a second chance — although the Governor may not revise substate area boundaries more often than every two years, there is no requirement that any change occur.

SDAs are not necessarily locked into initial substate grantee designations. Governors will redesignate substate grantees every two years, providing an opportunity for review and change. Realistically, though, there is frequently a degree of resistance to change once a program gets underway (even when politics or poor performance intercede). This inertia may be particularly prevalent in EDWAAA because substate grantees have complete responsibility for developing the substate plans, and consequently have considerable leeway to consolidate their power base. PICs and LEOs which are signatories to the substate grantee agreement have an opportunity for review and comment, but the substate grantee has no obligation to incorporate those comments into the plan.

Anticipating Local Funding Levels

A major issue that should affect local preferences on substate area designation is the expected funding level for the program. In the first year, there will be relatively little money to go around — only 283.7 million has been appropriated — while in succeeding years, depending on the federal budget, each State's share of the EDWAAA pie, and the local economy, potential funding may increase (or decrease) substantially. There is no longer a requirement that states match some or all their federal funds,

although states are encouraged to supplement EDWAAA funding as needed and as feasible.

Another factor that will certainly affect local funding levels is each State's formula. The law grants Governors tremendous flexibility in setting (and altering) the substate allocation formula, which means that substate allocation formulas may prove to be quite volatile over time. Factors which must be included are: insured unemployment data, unemployment data, unemployment concentrations, plant closing and mass layoff data, declining industries data, farmer- rancher economic hardship data, and long-term unemployment data. Governors may assign variable weights to any of those factors, and may also include additional factors. It is understood that data for some of the formula factors — particularly farmer-rancher economic hardship data — will not be immediately available. SDAs should participate with the State in planning for such data collection, and should anticipate other data gaps and work with the state to propose solutions.

Although EDWAAA is designed to assist a broad range of dislocated workers, from concentrations of workers affected by one plant's shut-down or scale- down to scattered displaced farmers, ranchers, and homemakers, there is no guarantee that individual State formulas will in fact treat all displacement equally. Rather, it is likely that individual State formulas will favor one type of displacement or one geographic area over another, possibly leaving small rural substate areas funded at levels so low that effective programming is difficult. (There is no requirement that all substate areas be funded; small ones could be passed over entirely if they have no severe dislocation problems — or little political clout.)

Local Substate Area/Substate Grantee Options

The law allows for a variety of local options regarding the designation of substate areas and substate grantees, and PICs and LEOs need to identify their interest and, ideally, come to agreement on a strategy at the local level before petitioning the Governor. Given the accelerated timetable for designation and the fact that SDA boundaries and administrative structures are already in place for Title II of JTPA, some Governors may utilize the existing systems across the board — which may not be the most advantageous outcome for some SDAs.

Key local considerations that should affect substate grantee decisions include: Readiness (who can gear up quickly), Experience with dislocated workers (they are very different in needs and expectations from IIA clients), Cost (who can build on existing administrative structures), Control (who has final say over the substate plan), and Role (is the grantee going to run the program directly, or broker the delivery of program services among competing interests.

Some states may decide to honor any local request, while others will carefully evaluate each one against the designation considerations listed in the law: statewide availability of services, coordination capability, and labor market area boundaries.

Maintaining the Status Quo

Naming the SDA's administrative entity itself as the EDWAAA grantee takes advantage of several strengths: SDAs have delivery systems already in place; SDAs have already built the necessary relationships with employers, organized labor, and the target population; grantees will be most easily able to coordinate worker adjustment planning and services with those Title IIA functions. In particular, significant administrative cost savings are likely to result from utilizing the SDA as the administrative agent for the new program, leaving a greater proportion of the available funds for participant services.

Utilizing the SDA as the grantee also serves the interests of PICs and LEOs by giving them a reasonable expectation of input into the substate plan beyond just the minimal review and comment specified in the law. PICs and LEOs can assume a level of control if their SDA administrative entity has plan development responsibility.

There is a potential land mine in maintaining the status quo. SDA staffs and contractors

who are experienced only in adult programming for Title IIA need to understand the differences between long-term dislocated workers and IIA's long-term unemployed adults. The long-term dislocated workers have to have identifiable skills which have been determined to be obsolete, and the dislocated workers are going to require very different interventions from those provided through IIA. SDAs which administer EDWAAA programs need to be sure they understand the differences — not only in order to run effective programs but also for audit purposes.

Alternatives to the Status Quo

The law provides Governors a number of alternatives to the existing JTPA delivery system, with particular discretion regarding smaller SDAs (less than 200,000 population). By listing three factors that Governors should consider in drawing the substate map, the law opens the door for the rationalization of any current JTPA situations that could prove dysfunctional to a statewide but largely locally implemented worker adjustment program. Those factors (statewide service availability, capacity to coordinate with human services and economic development programs, and labor market boundaries within the State) could push Governors to alter SDA maps in drawing EDWAAA substate area boundaries, especially if they are lobbied hard by organized labor, business, or others to conform to labor market areas or to meet other perceived needs.

Options for SDAs

SDAs with populations over 200,000 have the right to automatic substate area designation, and for expediency and political reasons most will exercise that right. Smaller SDAs are more subject to gubernatorial discretion, but there are ways for them to influence their fates. The discussion below is surely not comprehensive; rather, it suggests some of the designation options and issues SDAs can consider.

Larger SDAs. Despite their right to automatic designation, some large SDAs may wish to consider whether to ally themselves with neighboring, smaller SDAs. Political factors that inhibited such alliances when SDAs were first designated may still stand in the way of such a step now, but, to the extent that economic dislocation affects entire labor markets, SDAs may find it useful to be a part of a substate area that includes the entire labor market area. (This aim could also be met through joint operating arrangements as circumstances warrant.)

The most prominent issue that most larger SDAs are facing is the designation of a substate grantee. Even though the grantee designation decision is up for review every two years, the initial grantee will certainly set the initial direction for the program, and as such has a veryimportant role. SDAs whose JTPA administrative entities are functioning well and have the capacity to run — or to broker — the EDWAAA program will probably stick with those entities, and should have the political alliances in place to negotiate an agreement to that effect. In that case, a key factor for success is to ensure that staff are well trained in dislocated worker characteristics and proven program strategies.

Smaller SDAs. SDAs with a population below 200,000 have several options on substate area designation — an issue that must be resolved before the decision on substate grantee can be made, but which is certainly closely related to the grantee decision. The first step is to maintain close contact with the Governor's office and the State JTPA unit to understand and try to affect preliminary State policy deliberations. Many states are leaning toward automatically designating each SDA as a substate area; this may not be the most advantageous outcome for some smaller SDAs because of the resulting loss of economies of scale, although it may prove beneficial for geographically large rural SDAs concerned about proximity of services to dislocated farmers, ranchers, or other affected individuals. (It may also be the most politically expedient, both from the State and local perspective.)

Small SDAs need to weigh the increased control that comes with substate area designation against the economies of scale and the likelihood of a more stable funding base that can be obtained through affiliation with one or more neighboring SDAs. It is the smaller substate

areas that will be most vulnerable to fluctuations in local funding levels, because they will have a smaller funding base to begin with. Nonetheless, it can be argued that a small SDA can easily spend the additional funds it would receive under EDWAAA without the necessity of adding new staff or systems to do so — especially if those funds are few.

Some of the options facing smaller SDAs include the following:

• Small SDAs can request that they be granted substate area designation, while joining with an experienced neighboring SDA for grantee designation purposes. Though not specified in the law, this is a legal approach, and one that Governors may find politically attractive. For small SDAs who are able to negotiate favorable grantee agreements, this option provides maximum flexibility: They have all the advantages of participation in a larger program, yet have the mechanism in place to request grantee designation themselves within two years if things don't work out well in the interim.

• Small SDAs which have had Title III programs operated within their borders can request that they be granted substate area designation, and either designate as grantee, or simply contract program administration back to, the agency with local Title III experience. This structure offers flexibility similar to that in the previous approach, reserving for the SDA the option of running its own program in the future.

• Small SDAs can put together a combination of two or more small, contiguous SDAs that jointly includes at least 200,000 people and petition the Governor to be named as a substate area. This approach gives PICs and LEOs the opportunity to negotiate up front from a position of strength (rather than after the fact, should the Governor combine them with a neighboring SDA in a partnership that was not locally initiated).

• Small SDAs can propose that they be designated substate areas in conjunction with a neighboring SDA even when the aggregate population is less that 200,000. Governors have the option, but no strong legislative push, to do that. SDAs making such a request need to build a strong case that they can deliver services in an effective and coordinated way, and their request should address how they will compensate for the loss of the economies of scale that may result in a larger substate area.

• Small SDAs can request affiliation with a large SDA for substate area designation. This clearly represents a sacrifice of local control, but may be an appropriate trade-off to gain increased funding stability and access to the services available through linkage with a larger SDA. Up front negotiations should ensure the PIC and LEO(s) have specific approval of plan elements that affect their SDA in exchange for the budget increases that the larger SDA may receive as a result.

• Rural Concentrated Employment Programs (CEPs) which are designated as SDAs under JTPA may be automatically designated as substate areas; however, there is nothing in the law to prevent CEPs from requesting joint designation with a contiguous SDA if that appears to be a useful option.

Defining "Chief Local Elected Officials"

Once again, as in the initial process of designating PICs in the early days of JTPA, there is some room for interpretation regarding exactly who the "chief local elected officials" are for purposes of negotiating and signing the required substate grantee agreement when there is more than one local elected official in the substate area. County commissioners, mayors, city council presidents, and no doubt a host of others could claim to have a say. Clearly there will be a push to utilize the LEOs who were already identified as "chief local elected officials" during the PIC nomination process, if only because of the short timeframe.

Other Issues that Affect Local Options and Program Operations

Once substate areas and substate grantee designations have been determined, the

pressing decisions about the EDWAAA map and administrative system will make way for related issues. PICs and LEOs, as well as states, will have to figure out how to make the program work. Again, there will be many options. States will set the tone for local programs — ideally in consultation with local interest — but substate grantees will have considerable power as well. This section raises some of the issues that will face State and local leaders once the designation process has been completed. It would serve local interest well to begin thinking these issues through during their designation deliberations, as most have a bearing on, or will be affected by, the substate structure.

Reconstituting State Councils

The law requires that the composition of State Job Training Coordinating Councils be altered to include: 30 percent representing business and industry, 30 percent representing State and local interest, 30 percent representing organized labor and community-based organizations, and 10 percent representing the general public. This may mean a considerable gain for labor or community-based organizations, with potential losses for State, local, and business interests.

State council responsibilities will include: advising the Governor on designation of substate areas and substate grantees, the substate formula, state and substate plans, and performance standards. However, if Governors follow the timetable in the law for completing the council reconstitution process (which is required by January 1, 1989), states will be unable to finalize even the first-line decisions — designation of substate areas and substate grantees — until after that date. The recommended DOL deadline of November 1, 1989, while it does not allow much time for what will certainly be a highly politicized and intense process, has the virtue of enabling the rest of the implementation steps to proceed in a more timely fashion. If the designation decisions are permitted to be delayed until March 1, 1989, as the law permits, timely and well-thought-out implementation will be severely compromised.

State/Local Consultation Structure

As mentioned earlier, local interests should try individually and through their state organizations to suggest a State/local consultation process to the State. Both DOL's abbreviated EDWAAA implementation timetable and the fact that states have historically had total discretion in how dislocated worker programs operated combine to fuel fears that Governors may try to make all the EDWAAA decisions behind closed doors — perhaps more to meet deadlines or out of pre-EDWAAA habit than in a deliberate effort to lock out local interest. For that reason, it is incumbent upon local leaders to take the lead in proposing consultation mechanisms including, but certainly not limited to, those few required by the legislation.

Ideally, there should be State/local consultation on a wide range of issues including: the substate area map, substate grantees, factors included in the substate formula and the weight given to the various factors, whether funds are tightly targeted or widely distributed, the State/local split in responsibility for implementing rapid response actions, and where within the State bureaucracy the Dislocated Worker Unit is housed.

Carving Out the PIC Role

The legislation is ambiguous on the PIC role in EDWAAA. PICs within each substate area have a mandated responsibility to participate in the substate grantee designation discussions and to negotiate with local elected officials and with the Governor the substate grantee agreement. They also have the right to review and comment on the substate plan (but not necessarily to participate in developing it, or to require changes in it).

The PIC role in dislocated worker programs will almost certainly increase, regardless of the local service delivery structure for EDWAAA funds. PICs in many of the larger SDAs which will receive automatic substate area designation are already supporting the operation of local Title III programs and are likely to continue that involvement under EDWAAA. PICs

in SDAs which have not had Title III funds will have a role (either review and comment, or something more substantial) in how EDWAAA funds are spent.

Moreover, it is to the advantage of local interests that there be meaningful PIC involvement. Active PIC involvement can strengthen local programs by facilitating business involvement in the required labor-management coordination procedures, and by providing visible continuity of the basic JTPA public/private partnership. The extent to which PICs play an active role in EDWAAA is likely to be determined initially by the substate area designation and the substate grantee designation processes. The way those issues are settled can set the stage for substate areas making maximum use of the PICs within their borders, and for substate areas to benefit from the years of partnership-building skills and tools represented on the PICs.

Identifying the Population To Be Served

The first-line decision about the population to be served at the substate level will be made through the provisions of the substate formula.

Governors can weight the six required factors or add other factors in ways that could influence the populations to be served, with an emphasis on urban versus rural, or plant closings and mass layoffs versus small business failures.

Substate areas will also have some options, within the framework of substate formula constraints and State policy decisions. At both the State and local level, policymakers will have to decide — often repeatedly as circumstances change — the extent to which they are running a program to meet individual dislocated workers' readjustment needs as opposed to a plant closing/mass layoff program.

EDWAAA specifies two new populations as compared to traditional Title III target groups: unemployed ranchers and displaced homemakers. The difference in how the law treats them is clear: Displaced ranchers, along with farmers, are identified as part of the formerly self-employed population displaced by general economic conditions or natural disasters, while services to displaced homemakers are to be provided only if the Governor determines that serving them will not adversely affect service delivery to other eligible groups. Political pressure brought to bear by each of the new populations may be the determining factor in how extensively and how well they are served by EDWAAA. Displaced homemakers -- over 11 million strong nationally — have the numbers but are often too isolated and unorganized by virtue of their homemaker status to exert effective political pressure. Ranchers, better organized but far fewer in number, are likely to receive a higher level of service, both because they are mentioned as a specifically eligible population and because the law requires that the Secretary collect rancher-farmer dislocation data and that the Governors include that factor in the substate formulas.

Services Available for the Eligible Population

The Congressional concern that EDWAAA provide serious retraining services is evident in the restrictions placed on the use of substate funds. Substate areas are responsible for providing dislocated workers with retraining services (on which they must spend no less than 50 percent of their funds, unless the Governor grants them a waiver), basic readjustment services, and needs-related payments. States are responsible for services associated with rapid response assistance, including on-site labor-management work, information provision on available resources, working to avert dislocations, and helping substate areas respond to dislocations and access State assistance.

Ongoing State/substate consultation will be required in order for rapid response services to be effective, both because substate areas will need to provide local support for State rapid response teams and because, unless a threatened dislocation can be averted, it is the substate area's retraining and readjustment funds which may be utilized to deliver services to affected workers.

Also, states are responsible for coordinating the unemployment compensation system

with EDWAAA, yet it is locals who have the option to provide needs-related payments to dislocated workers who have exhausted their UI benefits — again, a split in responsibilities that will require ongoing State/substate cooperation.

ITPA Service Integration

Substate areas will have to develop strategies for coordinating EDWAAA with their ongoing Title IIA programs. For many substate areas, especially in states where Title III was operated as a State program with little local input or responsibility, IIA will be the primary point of reference for any new adult program such as EDWAAA. The dangers inherent in failing to recognize the differences between the client groups of the two programs have been noted earlier.

Substate areas will face questions such as:

- How do the EDWAAA target groups compare to IIA target groups? Does any overlap exist?

- How do dislocated workers' needs differ from those of IIA clients? Given that the average age of dislocated workers is older than IIA clients, are there potential opportunities for coordination with the Three Percent Older Worker program?

- Is there a danger of IIA programs shifting their recruitment tactics to target long-term dislocated workers, who have been out of work long enough to meet IIA income eligibility guidelines and who may seem easier to serve because of their workforce experience than some of the more traditional, harder-to-serve IIA client groups?

- What kinds of staffing changes, or staff retraining, will equip substate areas to handle dislocated worker programming effectively?

- To what extent can substate areas continue to utilize IIA contractors and IIA program designs?

Performance Standards

EDWAAA requires that any national performance standards allow for the cost differential that results from serving workers receiving needs-related payments, since those workers will be able to stay in training longer. It also allows Governors to vary performance standards based on factors within states and substate areas, characteristics of the population served, and types of services provided.

An EDWAAA performance measurement working group has already identified several important issues that will need to be resolved before any standards can be implemented. First, what should the measures be? One of the issues on which the Congress and others will certainly judge the program's success is wage retention, and that is appropriate. However, what should a wage retention standard be? Is it realistic to expect that workers — even skilled, experienced workers who have received substantial training — can obtain or match their former salaries when they may be changing careers entirely, and starting out without seniority in their new jobs? Is a wage retention standard that is less than 100 percent politically feasible? Should there be different wage retention standards for workers who have received rapid response assistance as compared to those who have received basic skills or occupational training, given that the objective of rapid response intervention is to help them either retain their jobs or get back to work quickly, while training has a very different expected outcome?

A second issue is the role of incentive payments. Should there be incentive payments in order for the standards to be meaningful? If so, there is no money for that purpose provided for in the law. States could presumably utilize some of their State administrative funds for that purpose, or, once there is a track record, states could factor each substate area's performance into the formula for the subsequent year's funding. No doubt other funding sources will be suggested.

Yet another issue is data collection. A performance measurement system depends upon

the collection of performance data, but what data would be collected? If substate data collection will be required, what will it entail and how will it be paid for? If a Governor varies the performance standards within a State, who pays the cost of the additional data collection that may be required?

Also to be determined will be: how Governors factor in specific characteristics of dislocated workers in general (and the characteristics of those sub-sets of dislocated workers actually served) in varying State and local standards, how the types of services provided will affect the standards, and what kinds of positions the reconstituted State Councils will take as they advise Governors on performance standards.

Coordination with TAA and WARN

The Omnibus Trade and Competitiveness Act, which amended JTPA Title III with EDWAAA, also amended the Trade Adjustment Assistance (TAA) program to require increased coordination with JTPA. In addition, the new Worker Adjustment and Retraining Notification Act (WARN) provides an opportunity to coordinate resources by requiring that advance notice of certain business closings or cutbacks be given to local government, the State dislocated worker office, and the workers themselves.

The Secretary of Labor recommends that linkages between EDWAAA and TAA be established in areas such as provision of early intervention services, development of a common intake point and application process for the two programs, provision of technical assistance and training and establishment of labor-management committees for dealing with dislocations. DOL has further suggested specific EDWAAA/TAA coordination opportunities:

- Providing workers with information on both programs through EDWAAA's early intervention services;

- Using labor management committees to provide information about available services to both trade-impacted and other dislocated workers;

- Specifying coordination and program integration strategies in State and substate worker adjustment plans as well as in TAA State agreements;

- Utilizing the Unemployment Insurance system to identify and refer dislocated workers to both programs; and

- Maximizing program coordination through staff training and technical assistance.

One of the most important coordination opportunities results from the new TAA provision that requires worker participation in approved training as necessary, and making that participation a condition for receiving trade readjustment allowance (TRA) payments once UI benefits are exhausted. Some of the issues that will affect EDWAAA/TAA coordination around that one provision include:

To what extent will the State's determination of what constitutes "approved training" be a product of State/local consultation?

- Will all Title III training be automatically approved?

- How effectively can Title III and TAA client assessment procedures be coordinated so that there is agreement between both programs regarding what is "feasible and appropriate" for individual dislocated workers?

Coordination between EDWAAA and WARN must occur both at the State level — focusing on the information gathering and information dissemination function of the State Dislocated Worker Unit — and at the local level. Local level effectiveness will depend upon how rapidly substate areas can prepare for an infusion of State rapid response team assistance and of State funds, which will depend in part on what procedures DOL requires employers to follow regarding the provisions of notification of closings or layoffs to local governments.

The Role of Labor at the Local Level

Labor may prove to be the wild card in the EDWAAA start-up process. There is nothing to stop labor from promoting its views directly with the Governor, or, labor could cause a PIC/LEO split by appealing to LEOs (ever responsive, as are Governors, to voting blocks) to oppose the preferences of the business-dominated PICs.

Labor may also have a larger percentage of State council seats, which will enable the labor interests to have more dominance not only in EDWAAA as compared to earlier Title III programs, but also in JTPA as a whole. To the extent that State councils influence Title IIA and IIB policies at the State level, those policies have the potential of moving more to fit the labor agenda.

It is essential that there be a serious dialogue at the national, State, and substate levels about labor's role in the program. Key issues for labor will be those involved in prenotification, plant closings, and mass layoffs, but it is important that labor feel a sense of ownership in the program as a whole.

The Role of State Legislatures

The abbreviated EDWAAA implementation timetable may run afoul of State Legislatures' schedules. With many State Legislatures out of session until spring, some states will be unable to meet the legislatively mandated deadlines for transition milestones, let alone the more ambitious US DOL timetable. For example, most states require State legislative action prior to reappropriating federal funds to local entities through the State. State enabling legislation must be passed to echo the federal law prior to EDWAAA implementation within the State and at the substate level. Also, in some states, the Legislature needs to approve the establishment in any new civil service unit such as the Dislocated Worker Unit.

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